

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jeffrey Pennington,)	C/A: 3:12-1509-JFA-SVH
)	
Plaintiff,)	
vs.)	ORDER
)	
Lt. Myers; Jackson; Lawson; McLeod; and)	
C.O. Alston,)	
)	
Defendants.)	
_____)	

By order filed August 27, 2013, this court declined to take the drastic step of dismissing this action for failure of the plaintiff to comply with discovery obligations required by the Federal Rules of Civil Procedure. Instead, the court required that the plaintiff pay to the defendant the costs of preparation for and attending the duly-scheduled deposition of the plaintiff which the plaintiff failed to attend. The court allowed the plaintiff twenty-one days in which to pay the \$1,427.17 required by the August 27, 2013 order.

In response, plaintiff has moved to strike and objects to this court's order adopting the Report and Recommendation of the Magistrate Judge. Defendants have responded to plaintiff's pleading, suggesting that dismissal with prejudice is appropriate under the circumstances of this case.

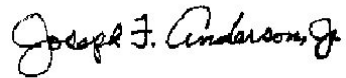
The court agrees with the defendants. It was the plaintiff who initiated this action in this court. That being the case, the plaintiff is obligated to comply with the Federal Rules

of Civil Procedure, one of which requires the plaintiff to submit to a deposition under oath by defense counsel. Plaintiff failed to appear at his scheduled deposition and has failed, despite being given several opportunities, to explain his failure. He has now ignored the court's order requiring payment of costs.

For the foregoing reasons, the plaintiff's motion to strike is denied and this action is hereby dismissed with prejudice.

IT IS SO ORDERED.

September 24, 2013
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge